

ORIGINAL

RECEIVED

MAR 25 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

The Foundation to Improve Television's
Proposal to Amend the Commission's
Rules to Regulate Television Programming
Containing an Excessive Amount
of Dramatized Violence and to Alleviate
the Harmful Effects of Such Programming
(§ 73.____)

To: The Secretary
Federal Communications Commission
Washington, D.C. 20554

PETITION FOR RULE MAKING

No. of Copies rec'd
List A B C D E

8010 NM

TABLE OF CONTENTS

<u>Heading</u>	<u>Page</u>
<u>SUMMARY</u>	iii
<u>PETITION FOR RULE MAKING</u>	1
I. <u>PRELIMINARY STATEMENT</u>	4
II. <u>TELEVISION VIOLENCE IN AMERICAN LIFE</u>	7
III. <u>THE DETRIMENTAL EFFECT OF TELEVISION VIOLENCE ON CHILDREN AND SOCIETY</u>	15
IV. <u>REGULATION OF TELEVISION VIOLENCE OUTSIDE THE UNITED STATES</u>	28
V. <u>THE CONSENSUS FOR IMMEDIATE REGULATORY ACTION</u>	37
VI. <u>THE COMMISSION SHOULD ISSUE THE PROPOSED RULES BECAUSE REGULATING TELEVISION PROGRAMMING TO PROTECT CHILDREN FROM PROGRAMS CONTAINING AN EXCESSIVE AMOUNT OF DRAMATIZED VIOLENCE IS IN THE PUBLIC INTEREST AND THE PROPOSED RULES ARE PERMISSIBLE PROGRAMMING REGULATIONS.</u>	41
A. <u>The Case for Regulating Televised Violence Has Become Compelling Since the Commission's Initial Decision in the 1970's to Tentatively Rely on Industry Self-Regulation.</u>	43

- B. The Commission's Duty to Uphold the Public Interest Requires the Commission to Protect Children from Televised Violence. 49
- C. The Commission Should Issue the Proposed Rules to Protect the Fifth Amendment Right of Children to be Free from Mental Harm Caused by Exposure to Excessive Dramatized Violence on Television. 58
- D. The Commission May Regulate the Transmittal of Televised Violence Without Violating § 326 of the Communications Act of 1934 or the First Amendment to the Constitution. 64

SUMMARY

The Petitioner proposes that the Commission issue one or more rules concerning dramatized violence in television programming. The proposed Rules, taken together, would require broadcasters, cable operators, and other telecasters (1) not to telecast programming containing an excessive amount of dramatized violence between 6:00 a.m. and 10:00 p.m.; (2) to provide explicit viewer advisories for programming containing an excessive amount of dramatized violence telecast between 6:00 a.m. and 10:00 p.m.; (3) to superimpose visual warning signals on programming containing amounts of dramatized violence inappropriate for children telecast between the hours of 6:00 a.m. and 10:00 p.m.; (4) not to transmit promotions or advertisements for programming telecast between 6:00 a.m. and 10:00 p.m., which promotions or advertisements contain an excessive amount of violence; (5) to develop a standard scheme for classifying television programming on the basis of the amount of dramatized violence it contains; (6) to educate and inform children about the harmful effects of violence, and to educate and inform viewers about the harmful effects of exposure to television violence, and; (7) to follow general guidelines, to be developed by the Commission in consultation with the television industry, when telecasting programming containing dramatized violence between 6:00 a.m. and 10:00 p.m..

Findings over the last twenty years by three different

Surgeons General, the Attorney General's Task Force on Family Violence, the American Medical Association, the National Institute of Mental Health, the American Psychiatric Association, the American Psychological Association, the American Academy of Pediatrics, and other authorities indicate that viewing televised violence is harmful to children. The amount of televised violence children in the United States watch also has serious implications for the alarmingly high rates of homicide, suicide, and violent crime in our society. The problem has only been exacerbated by the Commission's steadfast refusal to act on the problem in spite of its duty to regulate television programming in the public interest.

Americans watch enormous amounts of television, and many children will watch television for twice as many hours as they will attend school. Many children watch violent television programs without adult supervision or guidance. Recent studies indicate that violence on television is pervasive and becoming even more so, partially due to the proliferation of cable services. These studies also indicate that television viewers have little ability to avoid violent programming.

Laboratory experiments, as well as field studies and naturalistic studies, provide ample support for the conclusion that viewing television violence plays a causal role in the development of aggression. Watching aggressive behavior causes children to become more aggressive, and this

effect has been isolated from other factors. In one study, scientists found that childhood television viewing patterns are a better predictor of later adult aggression and criminal behavior than social class, parental behavior, child rearing practices, intelligence, and many other variables. Many studies of entire societies, conducted on small and large scales, show that violence and homicide rates increase dramatically after the introduction of television into a community. More than twenty years of research results such as these have led to a consensus that watching televised violence increases children's aggressiveness and desensitizes them to the effects and implications of violence. The solidity of the agreement among respected scientists that televised violence is harmful nullifies arguments to the contrary by the television industry.

Television violence is a matter of serious concern in the international community. Many countries, including Canada, Great Britain, South Africa, Belgium, Finland, Australia, New Zealand, and France, have taken action to combat the problem of television violence. The French government recently fined two television companies more than 10 million francs for broadcasting excessively violent programs during children's viewing hours. Australia's Broadcasting Tribunal recently recommended that broadcasters comply with a code of conduct to be drawn up by the industry with extensive input from the Tribunal and public interest

groups, and that compliance with this code be evaluated when broadcasters attempt to renew their licenses. New Zealand's Broadcasting Standards Authority has developed detailed regulations on the broadcast of violent images on television. The British Broadcasting Corporation has also developed guidelines relating to the depiction of violence on television. The Rules proposed herein have their counterparts in many of the advanced democracies of the world, including France, Australia, Belgium, New Zealand, and Britain.

Given the current consensus in the scientific community regarding the dangers of televised violence, the Commission should issue the proposed Rules pursuant to its duty to regulate television programming in the public interest. The proposed Rules would not violate either Section 326 of the Communications Act of 1934 or the First Amendment to the Constitution. The reasons the Commission declined to regulate televised violence in the 1970's, that more studies were needed to determine the effect of televised violence and that the television industry should be given the opportunity to reduce televised violence on its own, are no longer valid. Since the Commission initially declined to regulate televised violence, the evidence has become overwhelming that violent television programming is a serious social problem, and particularly harmful to children. Additionally, the First Amendment right to be free from intrusive speech in one's own home and the Fifth

Amendment liberty interest in being free from mental harm outweigh any First Amendment interest broadcasters or cable operators might have in exposing children to television violence. Furthermore, the Commission is not barred from applying the proposed Rules to cable-operators by 47 U.S.C. § 544b(f) because the Rules are content-neutral for First Amendment purposes. The Commission's authority to further the public interest has been construed very broadly, and it includes the power to regulate cable television. The continuing failure of the television industry to voluntarily reduce the amount of violence on television, even after receiving an antitrust exemption allowing it to do so, indicates that regulatory action is required.

The Commission's initial position on regulating televised violence, that doing so would be undesirable because such regulation raised serious First Amendment concerns, may have been warranted in the early 1970's. Any governmental limitation on communication raises the question of First Amendment issues. However, a careful examination of the development of First Amendment jurisprudence since the 1970's suggests that the Foundation's proposed Rules are now within the bounds of delineated First Amendment case law. The television industry has had over twenty years to voluntarily reduce the amount of violence on television to safe levels but has shown little inclination to do so. The Petitioner asks that the Commission acknowledge the now extensive empirical evidence that televised violence is a

serious social problem and amend its Rules and Regulations to include the Petitioner's proposed new Section 73.____ or issue one or more rules similar to those contained therein.

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

The Foundation to Improve Television's
Proposal to Amend the Commission's
Rules to Regulate Television Programming
Containing an Excessive Amount
of Dramatized Violence and to Alleviate
the Harmful Effects of Such Programming
(§ 73.____)

To: The Secretary
Federal Communications Commission
Washington, D.C. 20554

PETITION FOR RULE MAKING

COMES NOW the Petitioner, the Foundation To Improve Television, by and through its attorney, and respectfully requests that the Commission amend its Rules and Regulations to include the following new Section 73.____ or issue one or more rules similar to those contained therein. As an organization of viewers and parents, the Petitioner has a compelling interest in the reduction of dramatized violence telecast during children's viewing hours and in the implementation of regulatory measures designed to alleviate the harmful impact that excessive television violence has on children.

§ 73.____ Violent television programming.

1(a). Authorization, including but not limited to, a construction permit, license, license renewal, franchise, etc., for the operation of a broadcast television station, cable franchise or other facility or arrangement for providing television programming to the public from the Federal Communication Commission or from any other Federal, state or local authority shall be denied or withdrawn from any licensee, broadcaster or other programming provider upon a finding by the appropriate authority that such party has followed, is following, or proposes to follow, a policy or practice of broadcasting or transmitting television programming containing an excessive amount of dramatized violence between the hours of 6:00 a.m. and 10:00 p.m.

(b). For purposes of this section, television programming contains an excessive amount of dramatized violence if it contains dramatized portrayals of killings, rapes, maimings, beatings, stranglings, stabbings, shootings, or any other acts of violence which, when viewed by the average person, would be considered excessive or inappropriate for minors.

(c). For purposes of this section, "violence" means the use or threatened use of physical force against another or against one's self, whether or not such act or threat occurs in a realistic and serious context or in a fantastic and humorous context. Idle threats, verbal abuse, and gestures without credible violent consequences are not "violence" for purposes of this section.

(d). For purposes of this section, "an excessive amount of dramatized violence" means an amount of dramatized violence inappropriate for minors or exceeding that permitted by the guidelines developed by the Commission pursuant to paragraph 7 of this section.

2. Telecasters shall provide appropriate advisories, both audio and visual, to warn viewers of any programming containing an excessive amount of dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m. Such advisories shall explicitly refer to the violent content of the particular programming. Such advisories shall be shown at the beginning of any such programming, as well as at the conclusion of all commercial breaks

during any such programming.

3. Telecasters shall superimpose an appropriate visual warning signal over any programming containing an excessive amount of dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m., which signal shall remain visible for the duration of the programming.

4. Telecasters shall not telecast commercial advertisements or promotions for upcoming programming between the hours of 6:00 a.m. and 10:00 p.m., which advertisements or promotions contain an excessive amount of violence.

5. Telecasters shall promulgate a set of common standards for classifying programming on the basis of violent content which shall be made public and available to all interested parties, published in generally available program guides, and displayed on-screen immediately prior to the transmittal of the programming to which it pertains. All telecasters shall classify their programming according to the programming classification standards required by this paragraph. The standards shall be developed in consultation with the Commission and interested media-oriented public interest groups.

6. Telecasters shall develop programming designed to educate and inform children about the implications and effects of violence, violent behavior, and the effects of exposure to television violence. Telecasters shall also conduct or sponsor activities designed to enhance the value of such programming.

7. The Commission will convene hearings and solicit public comment on the issue of televised violence, after which the Commission will promulgate guidelines on programming containing dramatized violence telecast between the hours of 6:00 a.m. and 10:00 p.m., which guidelines shall provide telecasters with a clear understanding of their responsibilities.

The Petitioner suggests that any guidelines promulgated pursuant to Rule 7 should contain language similar to the following:

While violence may have legitimate uses in television programming, it should not be used gratuitously. Telecasters must consider the context in which violence is shown. Violence must not be divorced from its consequences, both moral and physical. Violence should not be exaggerated in relation to the context in which it occurs. Particular caution should be exercised when programming deals with both sexual and violent themes. Similarly, suicides, hangings, and the like should not be depicted in great detail or at length. Programs which are likely to adversely affect children's sensibilities should not be aired during children's viewing hours.

I. PRELIMINARY STATEMENT

1. The medical and psychological community has shown serious interest in the effects of television violence for more than twenty years. In 1972 the U.S. Surgeon General's Advisory Committee on Television and Social Behavior concluded three years of investigation on the topic with a finding that the viewing of televised violence can cause later aggression by some viewers.¹ In 1976 the American Medical Association passed a resolution declaring that television violence threatens the health and welfare of young Americans.² In 1982 a Surgeon General's study conducted by the National Institute of Mental Health confirmed that "there is a clear consensus among most researchers that television violence leads to aggressive behavior."³ In 1984 the Attorney General's Task Force on

¹Surg. Gen.'s Scientific Advis. Comm. on Television & Social Behavior, Television and Growing Up: The Impact of Television Violence (1971).

²Am. Med. Ass'n, Proceedings of the House of Delegates, June-July, 1976, 280.

³Nat'l Inst. of Mental Health, Television and Behavior: Ten Years of

Family Violence concluded, "The evidence is becoming overwhelming that . . . violence on television . . . may contribute to normal adults and children learning and acting out violent behavior."⁴

2. The American Psychiatric Association has also taken a firm stand on the issue of television violence. In 1987 the Medical Director of the APA expressed the Association's support of Congressional efforts to reduce the level of violence on television and stated: "The evidence is overwhelming that violence in television programming can have a negative and severe behavioral impact on young people and adults. As medical professionals we feel an obligation to counsel against adverse health effects when sufficient scientific evidence supports such a viewpoint."⁵ Similarly, in 1990, the American Academy of Pediatrics issued a policy encouraging all pediatricians to advise parents to limit their children's television viewing to one or two hours per day at most due to the scientific consensus surrounding the hazards of viewing television violence.⁶ Additionally, the American Psychological Association, after completing a five-year investigation, issued a resolution in 1992 on the issue of television violence: "the conclusion drawn on the basis

Scientific Progress and Implications for the Eighties (D. Pearl, L. Bouthilet & J. Lazar, eds. 1982).

4

⁵Letter from Melvin Sabshin, M.D., Dir. of the Am. Psych. Ass'n, to Sen. Paul Simon, June 18, 1987, reprinted in Hearings on S. 844 Before the Subcomm. on the Const. of the Senate Judiciary Comm., 100th Cong., Sess. 1, 976.

⁶Am. Acad. of Pediatrics, Comm. on Communications, Children, Adolescents, and Television, 85 Pediatrics 1119-20 (1990).

of twenty-five years of research . . . is that viewing televised violence may lead to increases in aggressive attitudes, values, and behavior, particularly in children."⁷ These firm positions taken by many leading health authorities regarding television violence and its effects on viewers are based on the nearly universal findings of the more than three thousand research projects, studies, reports and commentaries published in the United States between 1960 and 1992 that link the viewing of television violence to increased aggression, desensitization and fear in children.

3. The need for action has never been more apparent. The United States is suffering from an unprecedented epidemic of violence. One million of our nation's inhabitants die prematurely each year as the result of intentional homicide or suicide.⁸ Our homicide rate is many times higher than that of any other industrialized nation. The Federal Bureau of Investigation's Uniform Crime Reports for 1991 show that the rate of violent crime by people of all ages recently reached a record high -- up 33% since 1982. Additionally, the rate of arrests of juveniles for violent offenses in 1990 was 27% higher than in 1980. The Reports indicate that the rate was higher for youths of all races, social classes, and life styles.⁹

⁷Am. Psych. Ass'n, Big World, Small Screen, in Report of the American Psychological Association's Task Force on Television and Society (1992).

⁸C. Everett Koop & G. Lundberg, Violence in America: A Public Health Emergency, 267 J. Am. Med. Ass'n 3075 (1992).

⁹Violent Crime by Young Is Up 25% in 10 Years, N.Y. Times, Aug. 30,

4. For reasons that are no longer valid, the Commission, in the 1970's, declared that it would not regulate violence in television programming. Due to a lack of governmental regulation and a demonstrated unwillingness on the part of the television industry to regulate itself, the proliferation of violent programming continues. Each day that passes brings further harm to the mental health of young television viewers, and consequently to our society. The Petitioner submits that the Commission has an important and long-neglected role to play in alleviating the harm caused by television violence and that the Commission has the authority to regulate televised violence in order to safeguard the public interest.

II. TELEVISION VIOLENCE IN AMERICAN LIFE

5. Americans of all ages and backgrounds watch astoundingly large amounts of television. As of January 1992, 98% of all American homes had at least one television, and 65% had two or more.¹⁰ In 1990 the average American two-to five-year-old child watched 3.9 hours of television per day, or 27 hours per week.¹¹ During 1991, the average American aged two and older watched 28.2 hours of television per week; this accounts for approximately one-quarter of

1992, at 27.

¹⁰Electronic Industries Ass'n, data provided to Petitioner (January 1992).

¹¹A.C. Nielsen Co., Nielsen Report on Television 1990.

their waking hours.¹² In our urban centers, an average family views about 77 hours per week. In these families' homes, a television is on 11 hours per day on average.¹³ One indication of how strongly television influences children's lives is the estimate that by the time many American children graduate from high school they will have watched television for approximately 22,000 hours, twice as many hours as they will have spent in school.¹⁴

6. It is clear that children are watching extraordinarily large amounts of television. It is also clear that many of these children are watching violent programming without any supervision or guidance. A study completed in 1991 for the Corporation for Public Broadcasting found that 47% of surveyed children aged six to seventeen had a television set in their own room. Only 50% of these children reported that their parents set any rules at all regarding their television viewing.¹⁵

7. In 1990 Gerbner and Signorielli published the most recent of their now-famous Violence Profiles, which measure violence on network television and cover the period from 1967 to 1989. In the 1990 Profile's introduction, the authors conclude:

The most striking aspects of the findings is the

¹²A.C. Nielsen Co., Nielsen Report on Television 1991.

¹³Conway Daly, TV Watching Has Marked Effect on Family Life: Study, Montreal Gazette, May 14, 1992.

¹⁴Fred M. Hechinger, Fateful Choices 165 (1992).

¹⁵Nat'l Coalition on Television Violence, 13, No.1-4, Nat'l Coalition on Television Violence News 9 (1992).

remarkable stability in violent representations. Individual programs change but the overall structure of dramatic representations endures over time. . . . This update reveals that the percent of prime-time programs using violence remains more than 7 out of 10, as it has been for the entire 22-year period of this project. The rate of violent acts in prime time likewise remains between 5 and 6 per hour. About half of all prime time dramatic characters are involved in violence and about 10 percent in killing, as they have been since 1967. . . . Children's weekend daytime programming remains saturated with violence. In each of the past three seasons children were entertained with more than 25 acts of violence per hour committed by more than 7 out of 10 characters in 9 out of 10 programs. The Index for these years was at or above the 22-year average.¹⁶

Gerbner and Signorielli also probed the effect that deregulation of the television industry may have had on the amount of violence portrayed on television:

What effect, if any, did deregulation have on television violence? We can answer that question by comparing programs broadcast before and after 1980. The most significant difference seems to be the dismantling of codes pertaining to violence during children's programming. The rate for weekend daytime children's programs was 18.6 violent acts per hour before 1980 and 26.4 acts per hour after 1980.¹⁷

8. There is no indication that television has recently altered its emphasis on violent fare. A special study commissioned by TV Guide in April of 1992 was designed to assess the content of contemporary television programming. The Center for Media and Public Affairs, a nonprofit monitoring company, was enlisted to tape, tabulate, computerize, and analyze the programming of ten

¹⁶G. Gerbner & N. Signorielli, Violence Profile 1967 Through 1988-89: Enduring Patterns 2 (1990).

¹⁷Id. at 3.

Washington, D.C. channels for an 18-hour period (6 a.m. to midnight) on April 2, 1992. The ten channels were the local affiliates of ABC, CBS, NBC, Fox, and PBS; one non-affiliated station, WDCA; plus the cable channels of WTBS, the USA Network, MTV and HBO. TV Guide notes that the program schedules during the 18-hour period "were notable only for their ordinariness: no untypically violent movies like 'Rambo' or 'Scarface' were shown; even the news was light on violent events. . . ." The findings of this study are striking:

A total of 1,846 individual acts of violence; 175 scenes in which violence resulted in one or more fatalities; 389 scenes depicting serious assaults; 362 scenes involving gunplay; 673 depictions of punching, pushing, slapping, dragging, and other physically hostile acts; 226 scenes of menacing threats with a weapon In fictional programming alone, we found more than 100 violent scenes per hour across the 10 outlets studied. Well over a third of all the violence (751 scenes) involved some sort of life-threatening assault. Cartoons were the most violent program form, with 471 scenes. (Our study shows a glut of super-hero-style cartoons that feature more 'human' characters than earlier Tom & Jerry type fare; these realistic cartoons may have an even stronger influence on children.)¹⁸

The conclusion that TV Guide draws from the evidence obtained in this study is inescapable: "violence remains a pervasive, major feature of contemporary television programming and it's coming from more sources and in greater volume than ever before."¹⁹

9. The National Coalition on Television Violence

¹⁸Neil Hickey, How Much Violence?, 40 TV Guide No. 34, 10 (1992).

¹⁹Id. at 11.

conducted studies in the mid-1980's of 18 networks on broadcast and cable television and found, "[T]he advent of cable TV, instead of decreasing the average consumption of violent entertainment, has increased the intake of violence by an average of 50% for families subscribing to a pay cable movie channel."²⁰

10. Similarly, Gerbner and Signorielli conclude:

Video mayhem pervades the typical American home, in which the television set is on for an average of seven hours each day. Cable seems only to increase the penetration of its patterns into everyday life. For the past 22 years, at least, adults and children have been entertained by about 16 violent acts, including two murders, in each evening's prime time programming. In addition, our children are exposed to more than 20 acts of violence during each hour of television on Saturday and Sunday mornings. We have been immersed in a tide of violent representations that is historically unprecedented. Through an era of deregulation, corporate shakeups, and increased competition confronting the networks in recent years, this tide shows little sign of receding.²¹

Signorielli similarly notes that television viewers have little ability to avoid violent programming: "The program mix is such that the average viewer has little opportunity to exercise any choice in viewing. Large audiences watch violent programs scheduled in time periods when large audiences watch television."²²

11. Harold Rosenberg, the Pulitzer-prize winning

²⁰Television Violence Antitrust Exemption: Hearings on S. 2323 Before the Senate Judiciary Comm., 99th Cong., Sess. 2, 925 (1986).

²¹G. Gerbner & N. Signorielli, Violence Profile 1967 Through 1988-89: Enduring Patterns 9-10 (1990).

²²N. Signorielli, Selective Viewing: Limited Possibilities, J. Comm. (1986).

critic for the Los Angeles Times, evaluated the television fare of the 1991-92 season and found the following:

TV's reliance on action and conflict leads it down the criminal path. . . . Series with crime themes consume about 20% of the new prime-time schedules on ABC, CBS, NBC, and Fox. Moreover, that total excludes such series as CBS' late night 'Crime Time' strip and '60 Minutes', ABC's '20/20' and NBC's 'Expose' that regularly feature crime stories. And it also ignores seven network movie blocs that gorge on both real and fictional sensational crime in an attempt to titillate or capture the attention of viewers. . . . Add to this the crime emphasis of predatory newscasts, tabloid programs and talk shows . . . and the picture becomes clear.²³

12. The American Psychological Association's 1992 report entitled "Big World, Small Screen: The Role of Television in American Society" found that "the average child witnesses 8,000 murders by the the time he/she graduates from elementary school and witnesses more than 100,000 assorted acts of violence."²⁴ In his 1992 book entitled Fateful Choices, Fred M. Hechinger of the Carnegie Council on Adolescent Development observes, "By eighteen, young people will have been exposed to as many as 18,000 televised murders and 800 suicides."²⁵

13. Dr. David A. Hamburg, President of the Carnegie Corporation, recently authored a book entitled Today's Children. He argues,

²³Howard Rosenberg, Television's Criminal Tendencies, L.A. Times, Sept. 26, 1991, at F1, reprinted in Michael Medved, Hollywood vs. America 198 (1992).

²⁴Am. Psych. Ass'n, Big World, Small Screen: The Role of Television in American Society (1992).

²⁵Fred M. Hechinger, Fateful Choices 165 (1992).

Television's graphic portrayal of violence as a means of dealing with life's problems has extensive repercussions. Although violence has long been an integral part of human history and of child development, no generation in history has ever grown up with so much exposure to vivid, immediate, and wanton violence divorced from moral as well as physical consequences.²⁶

Professor Todd Gitlin, a sociologist at the University of California at Berkeley, agrees with Dr. Hamburg. He adds:

[T]he viewer who doesn't close his eyes is not drawn to identify with the victims as they are barely on the screen long enough to warrant second thoughts. . . . There is a delirium of delight in the perpetrator's ability to get away with murder The sheer volume and magnitude of mayhem is utterly severed from any conceivably rational objectives.²⁷

14. George A. Comstock, who has written extensively on the issue, is not concerned only with the amount of violence on television, but also with its context. He notes:

Television is schizophrenic in its treatment of law enforcement. Police and private detectives solve crimes with a success rate matched in actual practice only by the ticketing of parking violators by meter maids. The sociologist Otto Larsen many years ago found that antisocial means frequently were employed in television drama to attain socially-approved goals. That often remains the case. On television, justice and law are not synonymous and the end quite often appears to justify the means.²⁸

15. Bandura, et al., have also expressed serious concern with the context in which violence is portrayed. They observe:

In most televised programs the 'bad guy' gains

²⁶Cong. Rec. S10325 (daily ed. July 27, 1992) (remarks of Sen. Paul Simon).

²⁷Michael Medved, Hollywood vs. America, 190 (1992) ((quoting from T. Gitlin, Who are the World? (Am. Enterprise Instit. conference paper March 10, 1992)).

²⁸George A. Comstock, The Evolution of American Television 175 (1989).

control over the important resources and amasses considerable social and material rewards through a series of aggressive maneuvers, whereas his punishment is generally delayed until just before the last commercial. Thus children have opportunities to observe many episodes in which antisocially aggressive behavior has paid off abundantly and, considering that immediate rewards are much more influential than delayed punishment in regulating behavior, the terminal punishment of the villain may have a relatively weak inhibitory effect on the viewer.²⁹

16. Additionally, many analysts have expressed serious concern over the trend in television to portray violence as relatively harmless, clean, and fun. While real violence is chaotic, painful, and often bloody, television violence is often quite different. Stuart Gordon, an accomplished director of horror movies, recently discovered the difference while observing a hospital emergency room for a project. Gordon learned that, while fictional fights often last minutes and produce few serious injuries, in real life,

The person who throws the [first] punch breaks his hand, and the other person's jaw is broken. And that's the end. You break a chair over somebody's head, and that person's got a concussion and is probably unconscious for a couple of weeks. But it's something you see all the time on TV and you assume, you know, it's a fun thing to do.³⁰

17. Many television industry representatives argue that the violent content of television programming merely reflects the violent nature of contemporary American life. However, recent research casts serious doubt on this

²⁹A. Bandura, D. Ross, & S.A. Ross, Vicarious Reinforcement and Imitative Learning, 67 J. Abnormal & Soc. Psych. 601-97 (1963).

³⁰Michael Medved, Hollywood vs. America 196 (1992) (citing Sean Mitchell, Gore Galore USA Weekend, July 12-14, 1991, at 5 (quoting Stuart Gordon)).

explanation. Lichter, Lichter, and Rothmann conducted a content analysis of prime-time programming, and then compared it with crime and violence rates in the United States. After reviewing more than 600 shows, they concluded:

Our studies show that an evening of primetime puts to shame a night at the station house. Violent crime is far more pervasive on television than in real life, and the disparity widens as the danger increases. For the most serious crime of all, the difference is most dramatic. Since 1955 television characters have been murdered at a rate 1,000 times higher than real-world victims.³¹

III. THE DETRIMENTAL EFFECT OF TELEVISION VIOLENCE ON CHILDREN AND SOCIETY

18. Three different methods have been used to study the relationship between television viewing and aggressive behavior. These include the laboratory experiment, the field experiment, and the naturalistic study. As Dubow and Miller conclude, the results obtained from each of these research methods support the conclusion that viewing television violence plays a causal role in the development of aggression.³²

19. Evidence from laboratory experiments has overwhelmingly indicated that children who watch a film with

³¹Id. at 197 (citing S.R. Lichter, L.S. Lichter, & S. Rothmann, Watching America: What Television Tells Us About Our Lives (1991)).

³²E. Dubow & L. Miller, Processes Influencing the Relation Between Television Violence Viewing and Aggressive Behavior 5-7 (1992) (manuscript, to appear in Television Effects on Children (T.M. Williams ed.)).

aggressive content imitate aggressive behavior seen in the film, show an increase in other forms of aggressive behavior, and are subsequently more aggressive than children who see either a "neutral" film or no film at all.³³ L. Rowell Huesmann, a psychologist who has studied the question of media violence and aggression for the last twenty years, writes,

There can be little doubt that in specific laboratory settings exposing children to violent behavior on film or TV increases the likelihood they will behave aggressively immediately afterward. Exposure to violent TV scenes clearly causes many children to act more aggressively in this situation.³⁴

20. Field studies on children in various countries and settings have also shown a link between aggressive behavior and exposure to television violence.³⁵ Aletha Huston, Co-Director and Co-Founder of the Center for Research on the

³³See, A. Bandura, D. Ross, & S.A. Ross, Imitation of Film-Mediated Aggressive Models, 66 J. Abnormal & Soc. Psych. 31 (1963); Liebert and Baron, Short-term Effects of Televised Aggression on Children's Aggressive Behavior, in Television and Social Behavior: Vol. 2. Television and Social Learning (Murray, Rubinstein & Comstock eds. 1972); G.A. Comstock, New Emphases in Research on the Effects of Television and Film Violence, in Children and the Faces of Television: Teaching, Violence, Selling (E.L. Paler & A. Dorr eds. 1980); Aggression: Theoretical and Empirical Reviews, Vol. 2: Issues and Research 103-25 (R.G. Geen & E.I. Donnerstein eds. 1983); R.G. Geen & S.L. Thomas, The Immediate Effects of Media Violence on Behavior, 42 J. Soc. Issues 7-28 (1986); R.G. Geen, Human Aggression (1990).

³⁴Television Violence Antitrust Exemption: Hearings on S. 2323 Before the Senate Judiciary Comm., 99th Cong., Sess. 2, 925 (1986) (testimony of L. Rowell Huesmann, Ph.D. & Leonard D. Eron, Ph.D. June 20, 1986).

³⁵See Steuer, Applefield & Smith, Televised Aggression and the Interpersonal Aggression of Preschool Children, 11 J. Experimental Child Psych. 442-447 (1971); Wells, Television and Aggression: Replication of an Experimental Field Study (1973) (unpublished manuscript on file with the Univ. of Chicago Grad. Sch. of Business); Leyens, et al. The Effects of Movie Violence on Aggression in a Field Setting as a Function of Group Dominance and Cohesion, 32 J. Pers. & Soc. Psych. 346-360 (1975).